## FILED

February 03, 2025

CLERK, U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

BY: NM

DEPUTY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS WACO DIVISION

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PAITRIX CO. LTD.,

Plaintiff.

v.

CIVIL NO. 6:23-CV-00005-OLG-DTG

PATSNAP PTE, LTD.,

Defendant.

## ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has considered United States Magistrate Judge Derek T. Gilliland's Report and Recommendation (R&R), filed December 18, 2024, concerning Defendant's "Motion to Dismiss for Failure to State a Claim and Motion to Stay the Case Pending the Court's Ruling on Defendant's Motion to Dismiss" (Dkt. No. 36). (See R&R, Dkt. No. 65.)

A party who wishes to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days. FED. R. CIV. P. 72(b)(2). Defendant, through counsel, was electronically served with a copy of the R&R on December 18, 2024, and timely filed its objections on January 2, 2025 (see Dkt. No. 68). Plaintiff filed its response to Defendant's objections on January 16, 2025 (see Dkt. No. 69).

When a party objects to an R&R, the Court must make a de novo determination as to "any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3); see United States. v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989). Objections must be specific; frivolous, conclusory, or general objections need not be considered by the district court. Battle v. U.S. Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987) (quoting Nettles v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. 1982), overruled on other grounds by Douglass v. U.S. Auto. Ass'n, 79 F.3d 1415 (5th Cir. 1996)). Any portions of the

Magistrate Judge's findings or recommendations that were not objected to are reviewed for clear error. *Wilson*, 864 F.2d at 1221.

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Upon a de novo review of all matters raised therein, the Court finds that Defendant's objections should be and hereby are overruled. Although a court may judicially notice matters of public record in deciding a motion to dismiss, it is not required to do so. *See* FED. R. CIV. P. 201(b) (providing for judicial notice of facts "not subject to reasonable dispute"); *SiRF Tech., Inc. v. Int'l Trade Comm'n*, 601 F.3d 1319, 1327–28 (Fed. Cir. 2010) ("The recording of an assignment with the PTO is not a determination as to the validity of the assignment."); *see also Lone Star Tech. Innovations, LLC v. ASUSTEK Computer Inc.*, No. 6:19-CV-00059-RWS, 2022 WL 1498784, at \*3–4 (E.D. Tex. Mar. 18, 2022), *aff'd sub nom. Lone Star Tech. Innovations, LLC v. Asus Computer Int'l*, No. 2022-1769, 2024 WL 5182885 (Fed. Cir. Dec. 20, 2024). Additionally, to the extent there are any portions of the R&R to which Defendant has not objected, they are neither clearly erroneous nor contrary to law.

The Court therefore **ADOPTS** the Magistrate Judge's R&R (Dkt. No. 65) and, for the reasons set forth therein, Defendant's Motion to Dismiss for Failure to State a Claim and Motion to Stay (Dkt. No. 36) is **DENIED IN PART** and **DENIED AS MOOT IN PART**. Specifically, Defendant's untimely request for dismissal is **DENIED** without prejudice to re-urging at summary judgment and Defendant's request for a stay is **DENIED AS MOOT**.

It is so **ORDERED**.

SIGNED this

\_\_ day of February, 2025.

ORLANDO L. GARCIA United States District Judge